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April 17, 2000

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE COMMISSION

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OFFICE OF THE  
GENERAL COUNSEL  
ADJUDICATIVE DIVISION

In the Matter of ) ) HYDRO RESOURCES, INC. ) Docket No. 40-8968-ML P.O Box 15910 ) Rio Rancho, NM 87174 ) ASLBP No. 95-706-01-ML )	
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**INTERVENORS' MOTION FOR LEAVE TO REPLY TO  
HYDRO RESOURCES, INC.'S RESPONSE IN  
OPPOSITION TO MOTION TO REOPEN  
AND SUPPLEMENT THE RECORD**

Pursuant to 10 C.F.R. § 2.1237 and the Commission's general authority to ensure the establishment of a meaningful record, Intervenors Eastern Navajo Diné Against Uranium Mining ("ENDAUM") and Southwest Research and Information Center ("SRIC") hereby request the Commission to allow leave to reply to the Nuclear Regulatory Commission ("NRC") Staff's Response to Motion to Reopen and Supplement the Record (April 4, 2000) (hereinafter "Staff's Response").

Although the right to reply to a response to a motion is not permitted under 10 C.F.R. 2.730(c), a party may seek leave to reply. Detroit Edison Co. (Enrico Fermi Atomic Plant, Unit 2), ALAB-469, 7 NRC 470, 471 (1978). Leave to reply is granted "sparingly, and then only upon a strong showing of good cause." Commonwealth Edison Co. (Byron Station, Units 1 and 2), LBP-81-30A, 14 NRC 364, 372 (1981).

Intervenors submit that they have good cause to reply here, in order to correct incorrect statements by NRC Staff regarding (a) whether Intervenors have demonstrated that they have

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raised an exceptionally grave safety issue; (b) the qualifications of Intervenor's expert, Dr. John Fogarty, to provide expert testimony regarding the chemical toxicity of uranium; and (c) whether Intervenor has impermissibly attacked an NRC regulation. All three of these issues are fundamental to the disposition of the Intervenor's Motion to Reopen.

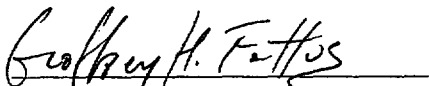
First, Intervenor seeks to correct Staff's inaccurate assertion that the health effects of uranium have been appropriately dealt with and the Intervenor has not raised an exceptionally grave safety issue. Staff's Response at 12. The Staff admits that (1) in setting the uranium groundwater restoration standard for uranium, it relied upon a regulatory standard that does not take into account the chemical toxicity of uranium; and (2) that it relied on outdated and flawed studies from an EPA database that has not been updated in over ten years. See Affidavit of Christopher A. McKenney at 4-5, and Intervenor's Reply to NRC Staff's Response to Motion to Reopen and Supplement the Record (April 17, 2000) Attachment A.

Second, Intervenor seeks to correct the NRC's objections to the consideration of the testimony of Dr. John Fogarty. Dr. Fogarty is well-qualified to conduct research on the subject and to comment on the literature survey discussed in his Affidavit. Further, he is well-qualified as a physician with 15 years of experience in basic science and clinical research to render an expert opinion on the chemical toxicity of chronic, low doses of uranium in drinking water and how it affects the kidney.

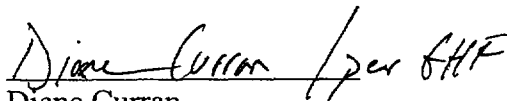
Third, Intervenor seeks leave to correct the assertion that Intervenor has impermissibly attacked a regulation. Staff's Response at 15-16. Intervenor has only attacked the inappropriate application of a standard that does not govern the situation as a matter of law. Therefore, its applicability as a groundwater restoration standard in this case is open to challenge.

Given the importance of the safety issue involved here, *i.e.*, the appropriate standard for restoration of groundwater, it is essential for the Commission to have a full and accurate record on these questions in order to make an informed decision whether to reopen the record. See Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-756, 16 NRC 1340, 1343 (1983). Accordingly, the Commission should grant Intervenors' request to file the attached Reply to the NRC Staff's Response to Motion to Reopen and Supplement the Record.

Respectfully submitted,



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HYDRO RESOURCES, INC.	)	Docket No. 40-8968-ML
P.O. Box 15910	)	ASLBP No. 95-706-01-ML
Rio Rancho, NM 87174	)	
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2000, I caused to be served copies of the foregoing:

**Motion for Leave to Reply to Nuclear Regulatory Commission Staff's  
Response to Motion to Reopen and Supplement the Record**

upon the following persons by U.S. mail, first class, and in accordance with the requirements of 10 C.F.R. § 2.712. Service was also made via e-mail to the parties marked below by an asterisk. The envelopes were addressed as follows:

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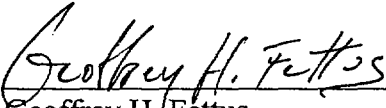
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